

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:
	:
— v. —	:
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MOUNIR MRABET,	:
	:
Defendant.	:
	:
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**ORDER**

S1 23 Cr. 69 (JSR)

The Government has submitted a motion requesting that the Court: (1) close the courtroom for the testimony of an undercover New York City Police Department detective (“UC-1”); and (2) allow UC-1 to testify at trial using only a pseudonym. The defendant consents to both requests.

With respect to the Government’s request to close the courtroom during UC-1’s testimony, the Court has considered the four-factor test set forth in *Waller v. Georgia*, 467 U.S. 39, 43 (1984). The Court finds that: (1) UC-1 has significant experience conducting undercover operations in the New York City area and continues to engage in such operations; (2) were UC-1’s identity to become known to the defendant, his associates, or others, UC-1’s safety and life would be in grave danger; (3) because UC-1 often conducts joint operations with other undercover agents, revealing UC-1’s identity would put fellow agents in grave danger as well; (4) the Government’s interest in protecting UC-1’s safety and in maintaining the continued effectiveness of ongoing undercover investigations is an extremely substantial interest, which would be seriously prejudiced by requiring UC-1 to testify in an open courtroom; (5) alternate means of protecting UC-1— such as testifying in disguise—will themselves pose a substantial risk to the defendant’s having a fair trial, as they would impact the jury’s ability to assess UC-1’s

credibility; and (6) because the defendant's immediate family will be permitted in the courtroom during UC-1's testimony, the transcript of the proceeding will be made available to the public shortly after the testimony is given, and a live audio feed of UC-1's testimony will be provided in another courtroom, the proposed courtroom closure is no broader than necessary to protect UC-1's safety and the integrity of ongoing investigations. Accordingly, the Government's request for limited closure of the courtroom is GRANTED.

The Government also asks to allow UC-1 to testify at trial using only a pseudonym. The Court has considered this request in light of the factors set forth in analogous New York State cases. *See People v. Stanard*, 42 N.Y.2d 74, 84 (1977). The Court finds that: (1) the risk of UC-1 being recognized in the course of UC-1's undercover work, leading to violent harm and potentially death, is a grave concern, which would be heightened if UC-1's name were publicly disclosed; (2) testimony about UC-1's name in no way goes to the defendant's guilt or innocence; (3) the limited open-court anonymity sought by the Government is not outweighed by the defendant's right to cross-examination because the Government will provide any impeachment material for UC-1 and has agreed to provide UC-1's real name to defense counsel privately under an "Attorney's Eyes Only" stipulation, which will allow the defense to fully investigate the witness out of court in order to prepare for cross examination; and (4) the only limitation sought by the Government is that the defense not inquire in open court as to UC-1's true name and that the defense not provide those names to anyone else, including the defendant, which is reasonable and no more burdensome than necessary. Accordingly, the Government's

request for UC-1 to testify at trial using only a pseudonym, is GRANTED.

Dated: New York, New York  
November 3, 2023



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THE HONORABLE JED S. RAKOFF  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF NEW YORK